

# DEPARTMENT OF ECONOMICS, FINANCE AND ADMINISTRATION

## Developments in the Western States Relating to Reciprocity Agreements<sup>1</sup>

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The problem of equitable taxation of heavy motor vehicles which travel in more than one state is reviewed. The nature of highway-user-tax structures and the relation of such structures to the "reciprocity" problem is discussed. After a summary of various reciprocal arrangements and of previous proposals for meeting existing reciprocity difficulties, developments in the western states concerning "pro-rata" agreements are given. Such agreements call for the pro-rating of annual fixed-fee type taxes on heavy motor vehicles which operate in more than one state, on the basis of miles travelled in each state.

● THE equitable and adequate taxation of commercial motor vehicles which operate in more than one state has arisen over the past three decades as a problem of increasing complexity and difficulty. During the post-war decade, which has seen substantial increases both in highway-user imposts and in highway use by vehicles travelling interstate, and also greater variations in tax structures, a number of states have found themselves facing critical situations with respect to tax policy as it affects the privileges of vehicles domiciled within such states, on the one hand, and the use of the state's highways by vehicles domiciled elsewhere, on the other.

The problem is sometimes called the "reciprocity problem" because one possible arrangement under which the taxation issue might be resolved is to permit motor vehicles duly registered and taxed in any one state to travel without further registration or taxation in all states which agree to reciprocate in granting such privileges. This kind of

arrangement currently exists between all states with respect to passenger cars. With respect to commercial vehicles, this was the first approach developed and is still employed by many states; a number of others use it under special conditions. In general, however, the arrangement in its simple concept is becoming increasingly unsatisfactory for the heavier vehicles for reasons which will be reviewed. But newer concepts which have emerged now point the way toward a reasonable approach to the taxation of interstate vehicles.

### BACKGROUND OF THE PROBLEM

Two highly important and significant concepts pertaining to highway financing have emerged during the past 40 years. One is the concept that highway users should pay the costs of providing facilities whose main function relates to vehicular movement (as opposed to land access). The other is the concept of a highway-user tax *structure* under which it is judged that the various classes of vehicles contribute their share to the support of the road system through a combina-

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tion of taxes. Non-acceptance of, or confusion with respect to, these concepts has contributed to interstate reciprocity difficulties. However, clearer understanding of these very concepts now appears to be providing a basis for agreement, between states and between the carriers and the states, on taxation of commercial vehicles which engage in interstate travel.

### *Highway Use Charges*

Regardless of views to the contrary with respect to the appropriateness of special highway-user taxation, and regardless of theories as to the appropriate levels of responsibility of users and other segments of the economic population, it is a fact that the major support for the nation's highway systems is derived from the highway users. With the exception of contributions from property or general taxation, which in the main may be considered to provide partial support for local roads and streets, the effort of the states and local jurisdictions is to obtain from the highway users sufficient revenue to cover the costs of providing highway service. At the same time an attempt is made to provide facilities, in capacity and in quality, roughly in accordance with traffic demands.

These practices and characteristics, whether recognized explicitly or only vaguely, appear to be the basis for the effort of the states to obtain repayment in some form, for highway use from all vehicles. Thus, in those instances where states have judged that fair compensation has not been received for highway use by interstate vehicles, either through obvious reciprocal use of highways by native and foreign vehicles, or by direct payment of one kind or another, traditional reciprocal arrangements have broken down.

### *User-Tax Structures*

All states have evolved a user-tax structure made up of a group of imposts on highway users intended, in combination, to derive compensation for use of the highway systems by classes of users according to some scheme of allocation of responsibility, which presumably represents a reasonable sharing of the burden of providing a state's highway facilities. But a variety of user-tax structures have evolved, each in response to conditions existing in a given state.

The oldest type of motor-vehicle tax is an

annual privilege tax of fixed amount, commonly called a registration or plate fee. The registration fees for passenger cars in some states are quite nominal and may be considered to cover the cost of administration of motor-vehicle registration plus a user tax (either under the concept of a "standby" charge or as a nominal adjustment in the user-charge system). However, these taxes have come to be graduated according to weight (or supplemental annual weight taxes have been added to the structure), with the result that substantial tax burdens are imposed on heavy motor vehicles in most states, under the simple guise of annual fees. An explanation of this development is found in examination of the motor-fuel tax and its role in the user-tax structure.

Probably one of the most effective special taxes invented is the fuel tax. A substantial portion of the total highway-user revenue is raised through this tax. A characteristic of this tax is that its yields are some function of highway use. Fuel used per mile varies considerably, however, between the lightest and heaviest vehicles: the heavier vehicles use more fuel per mile than do the lighter vehicles, but less per unit of weight hauled. Thus, the fuel tax standing by itself is found not to exact compensation in accordance with the assignment of responsibility. Therefore, all states use one or more other taxes in combination with fuel taxes to produce a balanced user-tax structure.

Since a single flat annual registration fee applied to all vehicles regardless of size, even in combination with fuel taxes, has generally been considered a highly imperfect adjustment to equity in highway-use charges, the various states have attempted further refinements. One type of refinement is accomplished through the system of annual taxes graduated according to weight, applied either in combination with or in addition to the simple annual registration fee. It has been pointed out, however, that annual taxes of this sort are crude instruments of tax equity, since all vehicles of any given size do not travel the same distances per year.

In an effort to find a more satisfactory method of supplementing fuel taxes to provide a more equitable user-tax structure, some states have developed schedules of charges based on a combination of weight hauled and

distance travelled. Ordinarily, the resulting weight-distance or graduated mileage taxes (sometimes loosely called ton-mile taxes) are a third component of the tax structure. Fuel taxes continue to be imposed. Annual registration taxes continue to be assessed but are not as high as they would otherwise be. The weight-distance taxes are designed to complete the structure and make up the balance of what is regarded as adequate compensation for highway use by the commercial vehicles.

It may be of interest to observe in passing that the method or theory of assigning responsibility for highway costs among the classes of users (such as ton-mile, incremental cost, etc.) is independent of the scheme of taxation which may be used to recover the assigned costs (1). For example, in Oregon, where a weight-distance tax schedule is used, the rates for the several classes of vehicles were derived from a consideration of an incremental cost assignment of responsibility.

Other states impose taxes based upon the gross receipts of for-hire carriers. Where these taxes have no counterpart in the general tax structure, and especially if the legislative intent is clear, they may be considered to be highway-use taxes, even though they bear an exceedingly rough and erratic relationship to actual highway use.

It should be apparent from this brief review that a variety of combinations are possible in devising a revenue structure. And it is a fact that the structures devised by the several states exhibit considerable variety, both in the relative emphasis placed on different use taxes, and in the effective total rate of charge for highway use. It is within the framework of these conditions that effort is given to finding a basis for equitable taxation of interstate vehicles.

#### POSSIBLE APPROACHES TO ALLOCATION OF TAX RESPONSIBILITY OF VEHICLES IN INTERSTATE MOVEMENT

Several possible approaches to the allocation of tax responsibility of vehicles which travel in more than one state have either been tried or proposed. These include (1) no reciprocity; (2) full or partial reciprocity; (3) the equivalent-mileage-rate proposal of the National Association of Tax Administrators; (4) the proportionate registration proposal of the trucking and bus industry; and (5)

some particular combination or modification of these several approaches.

#### *No Reciprocity*

Even during the early stages of development of automotive transportation, as soon as the volume of interstate vehicular movement became significant, the question of taxation of out-of-state vehicles aroused controversy. At that time fuel taxes were small or nil, and the registration fees, being the sole or most important use taxes, provided an appreciable fraction of revenues. Thus, it was not surprising that states should attempt to exact payment of registration fees for all vehicles travelling within their borders. But in theory annual taxes were paid for the privilege of operating within a state for an entire year, and obviously a vehicle operated in more than one state could not possibly be in any one state for the entire year. More than abstract principle was involved. The imposition of all taxes on each vehicle by more than one state created heavy burdens which came to be generally regarded as interstate trade barriers "when the multiple-state taxation of the equipment and services reaches the level where the cost is unreasonable when compared with the taxes on the same services wherein no state boundaries are crossed" (2). It was to avoid this result that reciprocity began.

#### *Full Reciprocity*

When and if the following conditions are approximated, the concept of "full" tax reciprocity (mutual exchange of exemption from registration and/or weight taxes) among the states would appear acceptable and workable:

1. No great disparity in level of annual taxes.
2. Vehicles pay to each state taxes on fuel consumed within the borders of that state.
3. Interstate travel is relatively insignificant or it appears that the import of mileage from non-registered vehicles and the export of mileage of registered vehicles are roughly in balance.
4. No other types of taxes are involved.

It should be observed that the reciprocity of privilege is limited to *registration* or other fixed fees. There is an understanding, explicit or implied, that the obvious high-

way-use tax, the fuel tax, is due to each state in which use is made of the highways. This is the ordinary concept of "reciprocity." It is noteworthy that the conditions involved in this concept are fairly well approximated for passenger automobiles, and all states grant reciprocity with respect to registration of these vehicles.

With respect to commercial vehicles however, and particularly the heavier ones, the departures from the conditions cited above often become important. Particular difficulty arises where there is a large variation in registration and weight taxes among states. Since vehicle domiciles may be easily moved, there is a natural tendency on the part of operators to register vehicles in the state with low fees, thus upsetting the possible balance of export-import travel miles. A second problem arises because large commercial vehicles often have enough fuel tank capacity to carry the vehicle completely through one or more states, with the consequent tendency on the part of the operator to purchase fuel where the fuel tax or fuel cost is lowest.

Perhaps the occasion of greatest difficulty and controversy in modern times has arisen, however, between states where one state has a weight-distance tax in its structure while another does not. In a sense, the weight-distance tax is automatically apportioned since only mileage travelled within the state is taxed. On the other hand, an annual tax theoretically applies to all mileage of the vehicle registered, whether travelled within or without the state.

The problems of two states in this circumstance may be demonstrated by a simple example. Suppose that 1,000 vehicles are operated in both States A and B, 500 of which had been registered in each state. Under full reciprocity, vehicles registered in A would pay full annual taxes to A as if all their mileage were in A. None of the vehicles registered in B would pay annual taxes to A, but this might be regarded as satisfactory since A collected full annual taxes from its registered vehicles. Assuming equal mileage in each state, the result would be exactly the same as if A and B had registered all of the vehicles but had collected only half of the annual taxes from each.

Now suppose A substitutes a mileage tax for its annual taxes. If B continues to offer

and to demand full reciprocity, A faces a difficult problem. Instead of collecting full annual charges from each of the vehicles previously registered there, A now collects mileage taxes on only the actual mileage which these vehicles travel in A (i. e., on half their total mileage), and if it gives reciprocity on mileage taxes it collects nothing from vehicles registered in B. State A will be inclined to withdraw reciprocity, not only because of the apparent loss of revenue, but also because it seems patently inequitable to assess a clear variable-use tax against some vehicles but not against others.

But State B also faces a dilemma. Suppose it continues to grant full reciprocity, even though A assesses its mileage tax against all vehicles. The vehicles previously registered in B would (if they did not move) have to pay full annual taxes to B and mileage taxes to A. B would feel that its vehicles were being discriminated against. And to avoid this, wherever possible, vehicles previously registered in B might for tax purposes move to A. In so doing, they would pay no more in mileage taxes, but they would no longer pay annual taxes to B.

Clearly, if A is to collect mileage taxes on all operations within its borders (which seems quite reasonable from A's point of view), B should be entitled to collect a certain amount of taxes on interstate operations within B. But if B withdrew reciprocity entirely it would assess full annual charges on all interstate vehicles. This would appear to exceed B's just entitlement; and once again it could be argued that unreasonable trade barriers were being erected.

For these and other reasons, the practice of granting full reciprocity with respect to commercial vehicles, in the above-defined sense, has broken down in many instances.

#### *Partial Reciprocity*

In the attempt to compensate for the difficulties just described, many states have at one time or other developed legislation, or have delegated to an administrative officer the power by which agreements would be made for the mutual exchange of "like" privileges. Not only does difficulty arise in defining "like" privileges when different tax structures are involved, but rather generally the arrangements have been unsatisfactory in the long

run, because, as the U. S. Board of Investigation and Research pointed out: "An essential weakness of these understandings is to be found in the ephemeral character of most of them . . . the informal manner in which many reciprocal arrangements are set up provides little assurance that they will not be terminated at will by either of the participating parties" (3). A basic difficulty lies in the fact that from time to time various states have compelling need to alter their user-tax structures, thus upsetting whatever supposed equity might have existed under the reciprocity agreements. Additionally, the great lack of uniformity occasioned by numerous and changing agreements has imposed a confusing burden on the operators. And so the search for means of achieving administrative workability and tax equity both for operators and between states has continued.

#### *N.A.T.A. Proposal*

In June 1952 the Committee on Highway Use Taxes of the National Association of Tax Administrators rendered a report on "A Practical Program to Improve Taxation of Interstate Highway Use" and proposed a model "Interstate Highway Use Tax" law, which was endorsed by that Association (4). This approach, with slight modification, was also recommended by the Committee on Taxation of Interstate Motor Vehicles of the Council of State Governments (5). Briefly, under this approach a heavy interstate commercial motor vehicle would pay for the use of the highway in each state at essentially the same rate *per mile* as an intrastate vehicle engaged in like operations. The basis for payment proposed was a mileage tax, to be in lieu of all other highway-user taxes imposed by a given state, and to be fixed in reference to *estimated* total user taxes per mile paid on intrastate operations of similar vehicles.

Among the advantages claimed for this approach are:

1. Each state would receive an equitable share of taxes on interstate vehicles, according to mileage operated, without creating a burden of excessive multiple taxation.

2. Interstate vehicles would be taxed equitably in each state in proportion to mileage and at rates applying to similar vehicles in each state.

3. The proposal recognizes that the intent

of a total user-tax structure is to produce compensation for highway use, and at the same time finds a "common denominator" regardless of the variance in composition of the total user-tax structure.

Among the disadvantages claimed are:

1. There would be difficulty in establishing mileage rates accurately, because annual mileages of both interstate and intrastate operators are difficult to obtain.

2. Probability of changes in annual average mileages of vehicles would require continual adjustments in rates to preserve equity.

3. Mileage taxes create serious problems of administration and enforcement.

#### *Industry Plan*

From time to time, for a number of years, various individuals in the trucking industry have proposed a scheme of apportioning the registration of vehicles in fleets among states in which a fleet operates, in proportion to fleet miles operated in each state. This approach was elaborated upon in a policy statement of the American Trucking Associations in 1954 (6). Essentially, the proposal called for "the preservation and promotion of reciprocity within the framework of the two-structure tax system.<sup>2</sup> This would be achieved by administering and applying the registration fees and motor fuel taxes in such a manner that all states would receive tax payments from trucks commensurate with their relative use of each state's highways. Under the industry's proposal, truck fleet operators would register their units in each state, so far as possible, in the ratio in which they operate in those states, thereby giving each state its proportionate share of registration payments. An equitable distribution of fuel tax payments would be obtained by the application of 'fuel-use' laws requiring interstate trucks to pay fuel taxes to each state commensurate with mileage operated in the state" (6).

Essentially the same proposal was advanced by the National Association of Motor Bus Operators (7). Advantages claimed for this approach are:

1. Each state gets an equitable share of annual taxes and fuel taxes.

2. Each interstate fleet pays an equitable

<sup>2</sup> The trucking industry designates the registration fee and the fuel tax as first and second structure taxes, and all other types of highway-user taxes as "third structure" taxes.

share of annual and fuel taxes to each state in which it operates.

3. Simplicity—it does not require calculation of equivalent mileage tax rates and does not disturb basic administrative procedures for other taxes.

4. It can be adopted individually by states without disturbing reciprocity arrangements of non-participating states.

Disadvantages claimed include:

1. Simplicity in administrative arrangements over the NATA plan is illusory; vehicles change ownership, new vehicles register at different times.

2. Regular mileage reports and audits would be required and possibilities of evasion would exist. Interstate cooperation in audits would be required as under the NATA plan.

3. Registrations based upon mileage reported in a previous year would require adjustment for actual current year mileage.

4. The plan does not solve one of the outstanding reciprocity problems—that of conflict between states with different user-tax structures—unless adoption of a “two-structure” tax system in all states were secured. Retaliatory measures might be used against states with different tax structures.

#### *Modified Approaches*

An attempted modification of the two plans so as to take into account all elements of the new tax structure of each state, whatever it may be, has evolved in the Western States. This development is described in the following section.

#### RECENT DEVELOPEMENTS IN THE WESTERN STATES

During the past few years the Western Interstate Committee on Highway Policy Problems<sup>3</sup> of the Council of State Governments has given considerable study and attention to the “reciprocity problem.” Considerable progress appears to have been made, in that essential features of proposed legislation and a model form of interstate agreement, prepared under the Committee’s auspices, have been accepted by a number of the states.

Active consideration of the problem was undertaken at a meeting of this Committee

at Phoenix, Arizona on April 26–27, 1954. At this meeting the Committee heard an explanation of the NATA plan (4, 5) and the trucking industry views, and was given a comparison of user taxes in the Western States (8).

#### *The Gearhart Statement*

A major and significant step toward agreement was made at the meeting of the WICHPP at Gearhart, Oregon, October 1–2, 1954. After consideration of reports prepared through its Subcommittee on Reciprocity (9, 10), the committee adopted a statement of beliefs, as follows:

“That the Western States working in concert are fully capable of developing equitable arrangements for the taxation of heavy motor vehicles which travel extensively in more than one state.

“That each state should have the freedom to develop the kind of user-tax structure that it determines to be most appropriate to itself, and that the issue of taxation of interstate vehicles should not be a determining factor in developing its user tax structure.”

The committee then went on to endorse the following principles:

“1. Each state is entitled to collect fuel taxes on fuel consumed within that state.

“2. Each state which has either a mileage tax or a gross-receipts tax (which tax is already automatically apportioned) is entitled to collect that tax from all operations within the state.

“3. Annual taxes or other taxes of the fixed-fee type which are not imposed on a basis which (directly) reflects highway use should be apportioned among the states, within the limits of practicability, on the basis of vehicle miles travelled within each of the states” (11).

#### *Model Legislation*

In order to develop a plan for bringing the Gearhart principles into effect, a task committee, composed of representatives of motor vehicle departments, tax departments, highway departments, legal departments, and enforcement departments, met in Los Angeles in November, 1954. There, consideration was given to numerous details which would have to be embodied in state legislation or in administrative practices of the states, if a proportional registration plan were to be made effective. The task committee found that, in general, adequate legal authorization existed

<sup>3</sup> The Western Interstate Committee on Highway Policy Problems was established by resolution at the Western Regional Conference of the Council of State Governments meeting at Portland, Oregon, October 3–5, 1949. The membership consists of legislators and state highway officials of the eleven western states.

in the western states for carrying out the principles insofar as motor fuel taxes and mileage or gross receipts taxes were concerned. In most states, however, additional legislation would be necessary to put into effect the recommendation that weight fees and other annual fixed fees be prorated on a mileage basis. Preliminary drafts of legislation which had been prepared for the task committee by the office of the Legislative Counsel of the California State Legislature were discussed in detail and amended to reflect the consensus of the group.

At a meeting of the WICHPP in Las Vegas, Nevada on December 6-7, 1954, the report of the task committee was presented in the form of two alternative drafts of legislation providing for the prorating of annual fixed-fee type taxes on heavy motor vehicles which operate in more than one state, on the basis of miles travelled in each state (12). One draft provided for the registration in each state of the appropriate number of vehicles of each interstate fleet. The number of vehicles required to be registered in each state would then depend on the relationship between fleet mileage in that state and total fleet mileage in all adopting and reciprocating states—the “fleet pro-rata plan.” The alternate draft provided that each interstate vehicle pay a fraction of the total amount which it would pay if all its travel were within the state; the fractional amount corresponds to the relationship between the number of miles operated by that vehicle in the state and the total mileage of that vehicle in all adopting states—the “dollar pro-rata plan.” By resolution, the WICHPP recommended to the western states the adoption of legislation “providing for the prorating of annual fixed-fee type taxes on heavy motor vehicles which operate in more than one state, on the basis of miles travelled in each state.”

By June of 1955, the laws of 9 of the 11 western states were in such form that serious negotiations could be initiated. At a meeting of the WICHPP in Billings, Montana on June 27-28, 1955, progress was reviewed and another task committee was designated to prepare a model Uniform Agreement which could be used by the reciprocity commissions or officers of the states in making actual agreements.

At the meeting of the task committee in Salt Lake City, Utah, September 12-13, 1955,

administrative problems to be met under an agreement involving proportionate registration of interstate vehicles were considered, and the points to be covered in a uniform agreement were outlined. Subsequently, through the help of the office of the California Legislative Counsel and special meetings of motor vehicle administrators and enforcement officers, a draft of a proposed interstate agreement was prepared, translating the consensus reached at Salt Lake City into appropriate legal form.

At the meeting of the WICHPP in Denver, Colorado, November 5, 1955, the model “Vehicle Registration Proration and Reciprocity Agreement” was approved by the Committee and recommended to the Western States (13).

Subsequently, and up to the present time (January 1956) nine states have signed agreements substantially in accord with the model agreement.

#### ACKNOWLEDGMENTS

Developments such as those reported here are the result of the efforts of many individuals. The skillful leadership of Representative Julia Butler Hansen, Chairman of the WICHPP, and of Senator Randolph Collier, Chairman of the Subcommittee on Reciprocity, has guided the development through many critical stages. The patience and understanding of the members of the Committee made rapid progress possible. Hard and thoughtful work previously done on prorating agreements by the motor vehicle administrators in the states of Montana, Idaho, Oregon and Washington laid an excellent background of experience, and greatly accelerated the work of the WICHPP. The constructive efforts and generous contributions of time and thought of the members of the task committee of the state administrations and officials were vital to the attainment of workable agreements; the membership of the task committee as appointed by the Chairman of the WICHPP was: Messrs. J. P. Amundson of Washington, Ollie M. Arbelbide of Idaho, Carroll G. Bryan of Colorado, William E. Healy of Oregon, John L. Hoffmann of Montana, Marvin B. Humphrey of Nevada, James F. Lamb of New Mexico, and Paul Mason of California. The able and perceptive work of Mr. J. D. Strauss and Mr. Ray H.

Whitaker of the California Legislative Counsel's office, in interpreting the detailed problems and translating the agreements into appropriate legal documents, was invaluable. At many points in the development, the wise counsel and helpful explanations of Mr. Paul Mason, Director of Motor Vehicles, State of California, and of Mr. Richard M. Zettel, Research Economist, Institute of Transportation and Traffic Engineering, University of California, resolved numerous difficulties. The continuous support of Mr. Elton McQuery and his staff of the Western Regional Office of the Council of State Governments, in arranging meetings, preparing documents, and adeptly summarizing proceedings, kept the whole development moving. The author of this paper, whose role was that of observer, and moderator-on-occasion, considers himself privileged to have been associated, even though incidentally, with this great cooperative effort.

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